

# JacksonLewis

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October 23, 2020

## VIA ECF

The Honorable Brian M. Cogan  
United States District Judge for the  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

The Honorable Stephen I. Locke  
United States Magistrate Judge for the  
Eastern District of New York  
100 Federal Plaza  
Central Islip, NY 11722

Re: *Angel Patino, et al. v. Cor J. Sea Food Corp., et al.*  
Civil Case No.: 20-cv-02460

Dear District Judge Cogan and Magistrate Judge Locke:

We are counsel for Defendant Greg Morgese (“Mr. Morgese”) in the above Fair Labor Standards Act (“FLSA”) matter. While the parties other than Mr. Morgese consented to Magistrate Judge Locke’s plenary jurisdiction prior to Mr. Morgese’s addition to this matter as a Defendant through the Amended Complaint filed on July 20, 2020 (Dkt. 14, 16), as of yet he has not joined that consent. *See generally Hajek v. Burlington N. R.R.*, 186 F.3d 1105 (9th Cir. 1999)(consent of “all” parties required, so not present based on absence of clear and unambiguous consent by [one Defendant]). Thus, Mr. Morgese submits this letter to Judge Cogan (as the previously assigned District Judge) requesting that Your Honor “so order” the enclosed stipulation of dismissal reached with Defendant James Coronesi relating to Defendant Coronesi’s cross claim against Mr. Morgese.<sup>1</sup> Mr. Morgese separately requests that the Court approve the stipulation attached as Exhibit B regarding his deadline to respond to Plaintiffs’ Amended Complaint.

Mr. Morgese thanks the Court for its attention to these requests and we will be available to answer any additional questions and participate in the status conference before Magistrate Judge Locke on October 28, 2020.

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<sup>1</sup> To the extent the District reassigns this matter to a different District Judge in light of the unusual procedural posture, Mr. Morgese directs this request to that Court.

**JacksonLewis**

Hon. Brian M. Cogan  
Hon. Stephen I. Locke  
USDC/EDNY  
October 23, 2020  
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Respectfully submitted,

JACKSON LEWIS P.C.

*Noel P. Tripp*

Noel P. Tripp

NPT:dc

cc: All Counsel of Record (*via* ECF)

4816-4909-6143, v. 1

# **EXHIBIT A**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

-----X  
ANGEL PATINO and EDGAR SALAMANCA,

Plaintiffs,

-against-

COR J. SEA FOOD CORP., JAMES CORONESI,  
and GREG J. MORGESE,

Defendants.  
-----X

( Civ. No.: 20-CV-2460 (SIL)

**STIPULATION DISMISSING DEFENDANT JAMES CORONESI'S  
CROSS-CLAIM AGAINST DEFENDANT GREG J. MORGESE**

WHEREAS JAMES CORONESI ("Coronesi") has asserted a claim for common law indemnification in this Fair Labor Standards Act ("FLSA") action against Defendant GREG J. MORGESE ("Morgese"); and

WHEREAS it is the law of this Circuit that there is "no right to contribution or indemnification for employers held liable under the FLSA." *Herman v. RSR Sec. Servs.*, 172 F.3d 132 (2d Cir. 1999);

It hereby is STIPULATED AND AGREED, by and between Coronesi and Morgese through their undersigned attorneys, who are authorized to enter into this Stipulation, that Coronesi's cross-claim against Morgese is dismissed, without prejudice.

CERTILMAN BALIN ADLER & HYMAN,  
LLP  
*ATTORNEYS FOR DEFENDANT CORONESI*  
90 Merrick Avenue  
East Meadow, NY 11554  
516-296-7000

JACKSON LEWIS P.C.  
*ATTORNEYS FOR DEFENDANT MORGESE*  
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By: \_\_\_\_\_ s/\_\_\_\_\_  
DOUGLAS E. ROWE, ESQ.  
DESIREE M. GARGANO, ESQ.

By: \_\_\_\_\_ s/\_\_\_\_\_  
NOEL P. TRIPP, ESQ.

Dated: October 23, 2020

Dated: October 23,  
2020 \_\_\_\_\_

SO ORDERED on this \_\_\_\_ day of October, 2020

\_\_\_\_\_  
United States District Judge

# **EXHIBIT B**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

-----X  
ANGEL PATINO and EDGAR SALAMANCA,

Plaintiffs,

-against-

COR J. SEA FOOD CORP., JAMES CORONESI,  
and GREG J. MORGESE,

Defendants.  
-----X

( Civ. No.: 20-CV-2460 (SIL)

**STIPULATION REGARDING DEFENDANT GREG J. MORGESE'S  
TIME TO ANSWER, MOVE OR OTHERWISE RESPOND TO  
PLAINTIFFS' COMPLAINT**

WHEREAS counsel for Plaintiffs and counsel for Defendant GREG J. MORGESE ('Morgese'), have conferred regarding the sufficiency of the allegations in the current Amended Complaint ("Complaint") as against Morgese, and possible further amendment of the Complaint relating thereto, and the parties wish to conserve resources pending the outcome of those discussions:

It is STIPULATED AND AGREED through THEIR undersigned attorneys, who are authorized to enter into this Stipulation, that any obligation on the part Morgese to answer, move, or otherwise respond to the Amended Complaint in this matter is extended to and including October 30, 2020;

It is FURTHER STIPULATED AND AGREED, by and between Plaintiffs and Defendant, through their undersigned attorneys, who are authorized to enter this Stipulation, that two previous requests for extension of the deadline to respond were made, and granted;

NEIL H. GREENBERG & ASSOCIATES, P.C.  
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By: \_\_\_\_\_ s/\_\_\_\_\_  
KEITH E. WILLIAMS, ESQ.

By: \_\_\_\_\_ s/\_\_\_\_\_  
NOEL P. TRIPP, ESQ.

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

SO ORDERED on this \_\_\_\_ day of October, 2020

\_\_\_\_\_  
United States [District/Magistrate] Judge